

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

BAODING TIANWEI GROUP CO., LTD, a
foreign entity,

No. 3:07-cv-00862-HU

Plaintiff,

**OPINION AND
ORDER**

v.

PACIFICORP, an Oregon corporation,
Defendant.

PACIFICORP, an Oregon corporation,
Third-Party Plaintiff,

v.

WINBO INTERNATIONAL CORP., a
California corporation; SUPER
POWER EQUIPMENT CO., a California
corporation,
Third-Party Defendants.

SUPER POWER EQUIPMENT CO., a
California Corporation,
Counter-Claimant

v.

BAODING TIANWEI GROUP CO., LTD, a
foreign entity,
Counter-Defendant.

1 HUBEL, Magistrate Judge:

2 This matter comes before the Court on Plaintiff Baoding
3 Tianwei Group Co. Ltd.'s ("Plaintiff") motion (Docket No. 213) for
4 default judgment against Third-Party Defendants Winbo International
5 Corp. and Super Power Equipment Co. (collectively, "the Third-Party
6 Defendants") on Plaintiff's second amended counterclaims.

7 Under Federal Rule of Civil Procedure ("Rule") 55(b), the
8 court may enter default judgment against defendants who have failed
9 to plead or otherwise defend an action. The "court's decision
10 whether to enter default judgment is a discretionary one." *Aldabe*
11 *v. Aldabe*, 616 F.2d 1089, 1092 (9th Cir. 1980). In exercising its
12 discretion, the court may consider

13 (1) the possibility of prejudice to the plaintiff, (2)
14 the merits of plaintiff's substantive claim, (3) the
15 sufficiency of the complaint, (4) the sum of money at
16 stake in the action; (5) the possibility of a dispute
concerning material facts; (6) whether the default was
due to excusable neglect, and (7) the strong policy
underlying the [Rules] favoring decisions on the merits.

17 *Eitel v. McCool*, 782 F.2d 1470, 1471-72 (9th Cir. 1986). When
18 assessing the *Eitel* factors, "all factual allegations in the
19 complaint are taken as true, except those with regard to damages."
20 *Ortega v. Griggs & Assocs., LLC*, No. 5:11-cv-02235, 2012 WL
21 2913202, at *2 (N.D. Cal. July 13, 2012).

22 Having considered the extensive briefing submitted by
23 Plaintiff, as well as live testimony during a prima facie hearing
24 held on April 16, 2014, the Court concludes that the *Eitel* factors
25 weigh in favor of entering default judgment against the Third-Party
26 Defendants. Accordingly, the Court GRANTS Plaintiff's motion
27 (Docket No. 213) for default judgment. Plaintiff is awarded: (1)
28 the total principal amount of \$7,460,669.87; (2) pre-judgment

1 interest in the principal amount of \$6,784,127.62 through May 9,
2 2014, plus daily interest of \$1,839.62 from and including May 10,
3 2014 until the judgment is entered; (3) post-judgment interest on
4 all amounts owed, pursuant to 28 U.S.C. § 1961, until paid in full;
5 and (4) Plaintiff's costs and disbursements incurred herein,
6 pursuant to 28 U.S.C. § 1920.

7 IT IS SO ORDERED.

8 Dated this 26th day of September, 2014.

9 /s/ Dennis J. Hubel

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11 DENNIS J. HUBEL
12 United States Magistrate Judge
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